

No. 9(1)82-Lab/8487.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Fabrication and Allied Products, Plot No. 39, Sector-24, Ballabgarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 21/1981

between

SHRI AMAR SINGH WORKMAN AND THE MANAGEMENT OF M/S FABRICATION AND
ALLIED PRODUCTS, PLOT NO. 29, SECTOR-4, BALLABGARH

Present :—

Shri Sunehari Lal for the workman.

Shri R. C. Sharma for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Amar Singh and the management of M/s Fabrication and Allied Products, Plot No. 39, Sector-4, Ballabgarh, by order No. ID/FD/3/1981/6508, dated 3rd February, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri Amar Singh was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the date fixed for filing of rejoinder, none appeared. Therefore, the case was dismissed for non-prosecution by the parties and award sent but the same was set aside on application of the workman. Issue under reference was put under trial by my order, dated 3rd September, 1981. The management examined Shri M. L. Virma Partner as MW-1 and the workman examined himself as his own witness as WW-1 and Shri Jodhan Bind as WW-2.

MW-1 deposed that the workman was appointed,—vide Ex. M-1 as Turner. There were about 20 workers in the employment of the management. Copy of attendance register was Ex. M-2. The workman had poor attendance record. His work was also not satisfactory. Therefore, his services were terminated,—vide Ex. M-3. The workman refused to receive the letter of dismissal, therefore, it was sent by registered post. Postal receipt was Ex. M-5. In cross-examination, he replied that Ex. W-1 was photo copy but changes had been made in it afterwards. He did not know if the workman was general secretary of the union because a union is formed and then disbanded. The process of union making goes on. He denied the suggestion that the workman was dismissed for organising a union. The concerned workman appeared as WW-1 and deposed that he got employment on 1st August, 1979 with the management. He was not issued appointment letter at that time which was given him later on, copy of which was Ex. W-1. The workman had submitted his demand notice in August, 1980. The management had issued charge-sheet to five workmen, namely, Shri Jodhan Bind, Uday Ram, Dharambir, Madan Lal and Lal Chand. They had formed the union and he was appointed General Secretary. His service was terminated on 20th November, 1980. He sent telegram Ex. W-2. Postal receipt was Ex. W-3. He had served demand notice copy Ex. W-4. Postal receipt was Ex. W-5. He was not issued charge-sheet nor any notice was given. His service was terminated for his union activities. In cross examination, he replied that he was a turner. No election of the union took place. He admitted that his bonus for the period February, 1980 to June, 1980 amounted to Rs. 138.45. No dismissal letter was sent to him nor issued to him. The management had issued him letter Ex. W-1. He denied the suggestion that Ex. W-1 was a fabricated document. WW-2 deposed that he had brought record of the union. Copy of constitution was Ex. W-6. Copy of registration was Ex. W-7. Copy of resolution was Ex. W-8. Copy of constitution bears the signature of Shri Amar Singh, General Secretary and his own signature. Documents Ex. W-9 to W-14 were copies of letters issued by the management to workmen. They had made complaint copy Ex. W-15. In cross examination, he denied that there was strike in the factory. He replied that he did not know contents of documents produced by him. The management had stopped them at the factory and later on they were suspended. He denied the suggestion that the union was formed on 11th November, 1980.

I have gone through the file and considered the argument advanced by the parties. The learned representative for the management contended that the appointment of the workman was temporary. His attendance record was poor. He was very irregular and attended for 149 days during the service, therefore, his service was terminated. On the other hand, learned representative for the workman argued that the workman was appointed with effect from 1st August, 1979 on permanent basis. He contended that no period was mentioned in Ex. W-1. The workman was victimised for his union activities.

According to the appointment letter Ex. M-1, I find that the workman was appointed as temporary/probationary character. According to clause 2 of the appointment letter copy Ex. W-1, the period of probation was kept blank (copy of the workman) whereas it showed six months in the letter Ex. M-1. In any case, the workman could claim himself as temporary. Further according to clause 3, it was essential to issue a confirmation letter to acquire such status. As regards the contention that he was appointed on 1st August, 1979, there was no evidence to substantiate the date of appointment. As regards the plea of victimisation, I find that it is correct so far as the registration of trade union was concerned by the workmen being its general secretary but the union was registered on 10th December, 1980 with resolution Ex. W-8 passed on 11th November, 1980. The contention that the management victimised the others workers of the union as well I find that all the workers were charge-sheeted and suspended by the management for misconduct given in document Ex. W-7 to W-14. However the concerned workman was neither suspended nor charge-sheeted. He had only 9 months of temporary service on his credit and termination was simpliciter as given in Ex. M-13. There was no stigma against the concerned workman in termination. Therefore, I do not find anything wrong in the action of the management.

In these circumstances, I pass my award that the workman was not entitled to any relief.

Dated the 27th July, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 875, dated the 10th August, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-Lab/8488.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Sikands Ltd., 61, New Industrial Township, Faridabad:—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 215/1977

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 215/1977

between

SHRI MANJEET SINGH, WORKMAN AND THE MANAGEMENT OF M/S SIKANDS LTD.,
61, NEW INDUSTRIAL TOWNSHIP, FARIDABAD

Present :—

Shri Bhim Singh Yadav for the workman.

Shri R. C. Sharma for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Manjeet Singh and the management of M/s Sikands Ltd. 61, New Industrial Township, Faridabad, by order No. 1D/FD/468-77/50121, dated 6th December, 1977, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the dismissal of Shri Manjeet Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my learned predecessor,—*vide* his order, dated 24th April, 1978 :—

- (1) Whether the dismissal of Shri Manjeet Singh was justified and in order? If not, to what relief is he entitled?

The parties led their evidence on the vires of enquiry and by order, dated 4th June, 1979, my learned predecessor held the enquiry to be vitiated. The case was then fixed for the evidence of the management who examined Shri V. D. Bhutani, Assistant Manager as MW-1 and the workman examined himself as his own witness. On the above facts, I passed award, dated 7th October, 1980 in this case. The management challenged the award before the Hon'ble High Court in Civil Writ Petition No. 24 of 1981 in which the order, dated 4th June, 1979 passed by my learned predecessor was set aside and consequently award, dated 7th October, 1980 also fell through.

On remand of the case, the parties were called upon to advance arguments on the vires of enquiry and keeping in view the order of the Hon'ble High Court, I passed order, dated 25th February, 1982 by which the enquiry was held to be proper. The parties were called upon to lead evidence on the justification of termination. The management examined Shri H. L. Narula, Executive Manager and the workman examined himself. This evidence was about the post dismissal and post award period.

I have heard the arguments of both the parties and gone through the record. The workman was charge-sheeted for insubordination and disobedience of orders of his superiors. An enquiry was held in which the charges were proved. The Enquiry Officer in his report found that the behaviour of the workman had been disorderly and indecent. He had also interfered in the working of tool room and extended threats to Shri Bhutani, Assistant Manager, Production. I have considered the statements of Shri Bhutani who appeared as MW-1 before my learned predecessor on 5th December, 1979. He gave certain facts about the misbehaviour of the workman. Language used by the workman was unworthy of words. The argument of the learned representative for the workman that the punishment was excessive is, without any force. I do not find any merits to interfere in the punishment awarded by the management. Therefore, I pass my award that the workman was not entitled to any relief.

Dated, the 2nd August, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 876, dated the 10th August, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/8489.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Melco Precision Link Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 84/1979

between

SHRI HARI NATH WORKMAN AND THE MANAGEMENT OF M/S MELCO PRECISION,
LINK ROAD, FARIDABAD

Present :—

Shri Mohit Kumar Bhandari, for the workman.

Shri S. L. Gupta for the management.

AWARD

The State Government of Haryana referred the following dispute between the workmen Shri Hari Nath and the management of M/s Melco Precision, Link Road, Faridabad, by order No. FD/1/21-79/10083, dated 1st March, 1979 to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

whether the termination of services of Shri Hari Nath was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my learned predecessor on 25-7-1979 :—

- (1) Whether the workman abandoned his job of his own ?
- (2) Whether Shri Hari Nath is a workman under Section 2(S) of the I.D. Act ?
- (3) Whether the termination of services of the workman was justified and in order ?
- (4) Relief ?

The claimant examined himself as his own witness as WW-1 and the management examined Shri V.K. Malik Partner as MW-1. Arguments were heard. Issue No. 2 taken first because this issue at the very root of the matter.

Issue No. 2.—He worked in the factory for the last five years as incharge of the foundry. He was doing all the work of the foundry and all the workmen of the foundry were under him. He took work from other workmen. He did that work when it could not be done by others. In cross-examination, he replied that he was supervising the work of all the workers. He was getting Rs. 665 per month. He was consulted appointment of the workman when he used to tell them that some workmen was required for some specific purpose and the management used to employ for that purpose. He used to test the workmen before their employment. In case some one was not found fit by him the management did not employ him. He also used to give opinion regarding quality of the produce. MW-1 deposed that the claimant was foundry incharge. There were 15—20 workers under him. He did not work with his own hands. He used to get work from others and used to supervise them. He used to assign day duty to the other workers. He used to recommend leave. Leave applications were Ex. M-5 to M-13 and M-13 to M-24 which were recommended by the claimant. Vouchers Ex. M-1 to M-3 were passed by the claimant. Ex. M-25 which was about leave wages, was also sanctioned by him. Advance applications were sanctioned by him which were Ex. M-26 to M-28. Resignation letter Ex. M-3 was also sanctioned by him. He further deposed that he used to recommend the workers for employment. He used to recommend increment. In cross-examination, he deposed that the claimant was appointed as incharge foundry in the year 1973. He himself was Engineer. He had no experience of foundry. Therefore, the claimant was sole incharge of foundry. The claimant used to mark attendance in the register. The name of Bansu Moulder was also in the register. He denied the suggestion that he himself used to supervise the work.

The claimant also appeared for confirmation of documents. He denied his signatures on documents from Ex. M-1 to M-12. In cross-examination, he denied the signature on the demand notice also.

The learned representative of the management argued that the claimant was a supervisor and not a workman as defined in the Industrial Disputes Act. He used to recommend leave, increments, advances, leave wages, etc. He used to recommend the candidate for selection. He supervised the work of other workmen. He further read over the statement of the claimant and contended that admission was best evidence. He cited 1970-II-L.L.J. page 590 1968-L.L.C. page 326. 1963 L.L.C. page 269. On the other hand, the learned representative for the workman argued that the claimant was a workman. No appointment letter was issued to him. He was promoted only as mistry and not a supervisor. He contended that the claimant had denied the signatures on the documents produced by the management.

I have gone through the documents and find that the documents referred above contained the signatures of Shri Hari Nath. Although there is no proof of recommendation or sanction on the application but even signature of director or proprietor were not on the documents. The contention that the claimant had denied the signature, was of little value because he denied his signature on the demand notice as well. The contention of the learned representative for the management that the admission was best evidence, is forceful because the claimant himself drew out of the category of the workman in his examination-in-chief and cross-examination recorded by my predecessor on 13th November, 1979. Although he has tried to reside from the earlier stand but it was little help to him. In these circumstances, I find that he was not a workman as defined under section 2(s) of the Industrial Disputes Act, 1947.

The reference fails on this sole ground. The refore, I pass my award that the claimant was not entitled to any relief.

M. C. BHARDWAJ,

Dated the 2-8-1982.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 880, dated 11th August, 1982

Forwarded four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.